

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

THIS DOCUMENT RELATES TO:

Warren Horn (0:17-cv-04515-JNE-FLN)
Janice Williams (0:17-cv-04519-JNE-FLN)

**DECLARATION OF DANIEL C. BURKE IN SUPPORT OF PLAINTIFFS'
RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Daniel C. Burke, declare as follows:

1. I am an attorney at Bernstein Liebhard LLP, counsel of record for Plaintiffs Warren Horn and Janice Williams in the above-captioned matter.
2. I submit this declaration in opposition to Defendants' Motion to Dismiss for Failure to Comply with the Pretrial Order No. 14.
3. Warren Horn and Janice Williams contacted Bernstein Liebhard LLP regarding injuries that were allegedly caused by Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Plaintiffs' treatments were obtained by Bernstein Liebhard LLP through its third party medical records

retrieval company. Those records indicate use of a Bair Hugger device during the original orthopedic surgeries.

5. Warren Horn and Janice Williams' cases were filed on October 3, 2017 to comply with the statute of limitations deadline.
6. Numerous contact attempts were made to Warren Horn and Janice Williams, by staff at Bernstein Liebhard LLP, to obtain information to complete the Plaintiff Fact Sheet.
7. Based on information and belief, Warren Horn and Janice Williams have not made any attempt to contact Bernstein Liebhard LLP in response to the contact attempts in order to provide information necessary to complete the Plaintiff Fact Sheet.
8. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for the above-captioned actions, Plaintiffs have not been able to comply with the Court's Pretrial Order No. 14.

Pursuant to 28 U.S.C. § 1746(2), I declare under the penalty of perjury that the foregoing is true and correct.

DATED: March 7, 2018

/s/ Daniel C. Burke
Daniel C. Burke